

**Amending the Uniform Per Student Funding Formula Legislation to Close the
Gaps Created by Expired Emergency and Temporary Amendments:
A Report to the Mayor and the Council of the District of Columbia**

October 4, 2005

A. Introduction.

In order to clarify ambiguities in the Uniform Per Student Funding Formula (UPSFF) legislation and address the emerging funding needs, the DC Council in recent years has passed several amendments. However, most of these amendments have been enacted only as temporary or emergency legislation. Consequently, many of the amendments have expired in the years since 2001. This has several consequences. For example, it makes it difficult to identify the most current version of the law, and it reopens the gaps that were temporarily closed by amendments. This leaves the law open to multiple interpretations and creates confusion for officials responsible for implementing the law.

This report summarizes the work of the State Education Office (SEO)-convened Technical Working Group (TWG) and Expired Temporary Legislation Analysis Ad-hoc Committee (ETLAAC) established to advise the SEO in addressing issues related to the UPSFF. One of the issues the TWG addressed this year was the issue related to the reinstatement of expired provisions, amendment of the definitions used in the management and application of the formula. The recommended changes to amend the legislation governing the management of the UPSFF for public education are based on public comment, research, deliberations of the Technical Working Group and input from both policy community and practitioners engaged in the field of education in the District of Columbia. These proposed changes address the following areas of the formula legislation: fixing technical errors; amending certain definitions for the management of the formula application; reinstating provisions of the temporary legislation that has expired, but is still relevant; and clarifying existing language in the UPSFF legislation.

The proposed **Recommendation # 5** to amend the UPSFF legislation to close the gaps created by the expired emergency and temporary amendments will have a significant policy implication in areas of the management of the summer schools and alternative schools. In essence, the changes will provide greater choice to the schools providing summer services and will expand the definition of alternative programs so that charter school students in alternative programs will also be covered by the proposed definition.

B. Process.

The process used by the State Education Office in developing these recommendations to amend the current legislation governing the provisions of the Uniform Per Student Funding Formula includes many activities.

- **Monitoring and Continuous Assessment of the Emerging Needs.**

The SEO continuously monitors the ways in which the application of the formula is managed. In assessing and monitoring the issues, the SEO identifies gaps and contradictions within the existing legislation that governs the provisions of the funding formula. The issue regarding the reinstatement of the expired provisions of the UPSFF legislation had been under consideration by the SEO since the year 2003. However, this issue had not been brought to the attention of the TWG until March 2005. In March 2005, the SEO established an ETLAAC. Membership in the ETLAAC consisted of people who were already in the TWG. The SEO convened an initial meeting of the ETLAAC to explore the process to be used and strategies to be devised for addressing this issue.

- **Assembling the Expired Amendments and Developing Analysis Strategies.**

Once the State Education Office identified and assembled the expired and temporary provisions of the formula, it sought input from the ETLAAC to develop strategies for analyzing legal documents. Based on the input of the TWG, the SEO prepared three documents: 1) most current version of the formula, 2) Expired Legislation: Comparison to Current UPSFF Text, and 3) Expired Legislation Not Adopted in Current UPSFF Text.

- **Convening Meetings of the ETLAAC.**

The SEO convened several meetings of the ETLAAC to analyze the current, old and expired provisions of the UPSFF. These working sessions were designed to evaluate the relevance of the expired provisions by comparing expired provisions with the current legislation to determine if the expired provisions had been incorporated in some way in the current definition, and to conduct research on how other jurisdictions have addressed issues related to summer school and alternative schools.

- **Convening Meetings of the TWG.**

After the ETLAAC made its recommendations to either reinstate, ignore, or redefine expired provisions, the SEO collected the feedback and presented the recommended changes to the members of the TWG for further delineation of the proposed change. TWG members analyzed the ETLAAC's recommendations and provided their feedback. The TWG met two times to review the drafts of the changes.

C. Summary of the Recommendations.

The SEO proposed recommendation for revision of the UPSFF for public education in the District of Columbia will affect the following sections of the current legislation:

- DC Code § 38-2901. Definition. Section (2). The proposed language change will expand the current definition of an Alternative School. The current definition was developed and enacted during a time when charter schools were still in the formative stages in the District. With growth in the number of charter schools in the District, it became necessary to revisit the provisions for alternative school contained in the existing legislation. The proposed amendment to the current definition will now allow inclusion of District's public charters school students.
- DC Code § 38-2901. Definition. Section (6). Proposed revision will amend the meaning of full-time students. Current definition distinguishes between student and adults. However, the members of the TWG expressed concern that students should be students regardless of their age. The current definition also assumes that adult students attend classes only during night. It may have been the case that in the past adult students attended classes at night; however, it cannot be assumed that adult students always attend classes at night or during the day. The proposed change will allow students to attend classes either during the day or at night times.
- DC Code § 38-2901. Definition. Section 13. The proposed language change will amend the current definition of summer school. The amended definition will allow more flexibility for schools to schedule summer schools. This amendment allows schools that provide summer services during intersessions within the school year to receive funding. However, the law makes it clear that the funding received for the summer education has to be used to fund instructional programs that are designed for students who have not met promotion policies of the DCPS and public charter school and the instruction has to be in addition to the regular 180 day school year.
- DC Code § 38-2905. Section (e). The amendment to this sections will affect subsection (1) (2) (3) and (4). Section (e) directs the way summer school weighting of 0.17 shall be applied. The change allows schools that offer summer programs during intersession to receive funding. Section (1) is amended so that the current provision is consistent with the amended definition. Section (2), which directs the way in which schools qualify for full summer funding, is amended so that the provision is consistent with the new definition. It also adds a phrase "the equivalent of" before the phrase "at least 4 hours of instruction". This amendment will have a significant policy implication in terms of how summer would be defined. It will make practice more flexible so that schools providing summer services--in accordance with the provisions established under DC Code 38-2901. (13)--through intersession will be able to do so to accommodate their students

who need summer school type services to be promoted. Section 3 is not amended but will be affected by the new definition. Similarly, subsection 4 is not amended but will be affected by the new amendment.

- DC Code §38-2906. Pupil count. Section (b) subsection (3) will be reinstated by the proposed language change. The 2006 Budget Support Act of 2005 repealed this provision. The SEO-convened TWG determined that, in absence of this provision, charter schools are like to over-project their student enrollment.
- DC Code § 38-2906. Pupil count. Section (d) will be affected by the proposed amendment. The amendment will formalize the practice that the SEO should commission an independent contractor to verify the annual student enrollment of DCPS and public charter schools. The amended language also clarifies the specific issues the contractor would have to verify while conducting the audit. This amendment also corrects an error in the exiting language by replacing “State Education Office” with DCPS and public charter schools.
- DC Code §38-2906.02. Section (a) will be affected by this amendment. The change will affect the date of the October payment. Currently, the 2006 Budget Support Act of 2005 has also changed the date from October 15 to October 25. Charter school advocates have said that October 25 is better than October 15 because it will give them enough time to resolve issues that may have arisen during the enrollment verification. The current language also says the payment to charter schools shall be made in the form of 4 equal quarterly payments. The amended language will delete the word “equal” because in practice these payments are not 4 equal payments as they have to be adjusted in accordance with the audit.
- DC Code §38-2906.02. Section (b) will become consistent with changes made in the 2006 Budget Support Act of 2005.
- DC Code § 38-2906b. Section (c) will be amended to change the date from October 15 to October 25.
- DC Code 38-2906b will be amend to add subsection (f) and (g). The provisions in these subsections were included in the prior legislation but have expired; however, the TWG determined that these provisions are still needed.
- DC Code 38-2908. Facilities allowance for public charter schools. The amendment to this section of the law will add section (d) and reinstate the provision that charter school providing room and board in a residential setting will, in addition to its regular facilities allowance, receive facilities allowance and this regular allowance will be multiplied by 2.7.
- DC Code 38-2910. Procedure for adjusting appropriation in case of revenue unavailability. The proposed amendment to this section of the law will delete the

word “the Emergency Transitional Education Board of Trustees because this entity does not exist anymore.

- DC Code 38-2911. Periodic Revision of Formula. The proposed amendment to this section will make formula legislation consistent with the State Education Establishment Act of 2000 that requires the State Education Office to make the recommendations to the Mayor and Council for revision of the formula.